

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DEBORAH ANN BUCZEK,

Plaintiff,

-v-

ORDER
15-CV-273S

UNITED STATES OF AMERICA,

Defendant.

INTRODUCTION

Plaintiff Deborah Ann Buczek has filed this *pro se* action seeking relief under 26 U.S.C. § 7433. Plaintiff alleges the unlawful levying of her assets and collection of her taxes. In response to this Court's previous Order (Docket No. 4), Plaintiff has filed an Amended Complaint (Docket No. 5) and Supplemental Amended Complaint (Docket No. 6), which this Court will construe together as Plaintiff's Amended Complaint. As is required, this Court will construe Plaintiff's *pro se* pleadings liberally and interpret them "to raise the strongest arguments that they could suggest." Graham v. Henderson, 89 F.3d 75, 79 (2d Cir. 1996) (quoting Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir. 1994)).

For the following reasons, the Clerk of Court will be directed to cause the United States Marshals Service to serve the summons and Amended Complaint (Docket Nos. 5 and 6) upon the defendant.¹

¹In allowing Plaintiff's claim to proceed to service, this Court expresses no opinion concerning whether Plaintiff's claim can withstand a dispositive motion.

DISCUSSION

Because Plaintiff has been granted leave to proceed *in forma pauperis*, see Docket No. 4, her Amended Complaint is subject to screening. Under 28 U.S.C. § 1915 (e)(2)(B), the court must dismiss a case in which *in forma pauperis* status has been granted if the court determines that the action (I) is frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.

In its previous Decision and Order (Docket No. 4), this Court recognized that Plaintiff's claims under 26 U.S.C. § 7433 could be brought only against the United States. Consequently, after dismissing the claims against all previously named defendants, this Court ordered Plaintiff to file an Amended Complaint that (1) named only the United States as the defendant, (2) included allegations concerning the exhaustion of administrative remedies, and (3) included allegations concerning whether Plaintiff's claims are timely. (Docket No. 4.)

Plaintiff timely filed her Amended Complaint as directed. Although Plaintiff's Amended Complaint and the attachments thereto continue to be cluttered by extraneous, irrelevant information, this Court finds that Plaintiff has nonetheless sufficiently complied with this Court's prior Decision and Order by naming the United States as the defendant and including allegations concerning exhaustion of administrative remedies and timeliness of her claims.² (See, e.g., Docket No. 4, pp. 3, 4, 9.) Consequently, this Court will order that Plaintiff's Amended Complaint proceed to service.

²Again, this Court offers no opinion at this preliminary stage as to whether Plaintiff has demonstrated proper exhaustion of administrative remedies or that her claims are timely.

CONCLUSION

IT IS HEREBY ORDERED, that the Clerk of Court is directed to cause the United States Marshal to serve copies of the Summons, Amended Complaint (Docket Nos. 4 and 5), this Court's prior Decision and Order (Docket No. 4), and this Order upon the defendant without Plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor.

SO ORDERED

Dated: February 27, 2017
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge